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BEFORE THE ARIZONA CORPORATION

COMMISSIONERS

SUSAN BITTER SMITH - CHAIRMAN
BOB STUMP
BOB BURNS
DOUG LITTLE
TOM FORESE

Arizona Corporation Commission

DOCKETED

OCT 19 2015

DOCKETED BY

IN THE MATTER OF THE PROPOSED
AMENDMENTS OF THE PIPELINE SAFETY
RULES A.A.C. R14-5-202, R14-5-203, R14-5-204,
R14-5-205, AND R14-5-207.

DOCKET NO. RG-00000A-15-0098

**NOTICE OF FILING
STAFF PROPOSED ORDER
APPROVING EMERGENCY
RULEMAKING**

Staff hereby provides notice of filing the attached proposed order that would approve Staff to pursue adoption of the proposed rules as an emergency rulemaking.

RESPECTFULLY SUBMITTED this 19th day of October, 2015.

Charles H. Hains
Attorney, Legal Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007
(602) 542-3402

Original and thirteen (13) copies of the foregoing filed this 19th day of October, 2015, with:

Docket Control
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

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2015 OCT 19 P 2:51
AZ CORP COMMISSION
DOCKET CONTROL

Copy of the foregoing mailed this 19th day of October, 2015, to:

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BEFORE THE ARIZONA CORPORATION COMMISSION

SUSAN BITTER SMITH - Chairman
BOB STUMP
BOB BURNS
DOUG LITTLE
TOM FORESE

IN THE MATTER OF THE PROPOSED
EMERGENCY AMENDMENTS TO THE
PIPELINE SAFETY RULES A.A.C. R14-5-
202, R14-5-203, R14-5-204, R14-5-205, AND
R14-5-207.

DOCKET NO. RG-00000A-15-0098
DECISION NO. _____
ORDER

Open Meeting
October 20 and 21, 2015
Phoenix, Arizona

BY THE COMMISSION:

On March 24, 2015, Staff of the Safety Division ("Staff") of the Arizona Corporation Commission ("Commission") docketed a memorandum requesting to have a docket opened for purposes of amending Arizona Administrative Code ("A.A.C.") R14-5-202, R14-5-203, R14-5-204, and R14-5-207, of the Pipeline Safety Rules. As a result, this docket was opened. Staff then filed its proposed changes to the Safety Rules on March 31, 2015. On April 15, 2015, Staff filed a notice of errata indicating that the caption should include amendment to R14-5-205 as well.

On April 23, 2015, the Commission issued Decision No. 75023, which approved the filing by Staff, a notice of proposed rulemaking to adopt the proposed rule changes with the Arizona Secretary of State, as well as establishing various procedural requirements. After following the procedural requirements for the proposed rulemaking and the taking of public comments regarding the proposed rule amendments, the Commission issued Decision No. 75250 on August 26, 2015 adopting as final proposed rules, the Staff proposed rule amendments and ordering Staff to file the notice of final rulemaking with the Arizona Secretary of State. Decision No. 75250 further

1 required Staff to submit the rules to the Arizona Attorney General for certification in accordance
2 with the procedural requirements to adopt a rulemaking.

3 During the pendency of the certification review by the Attorney General, Staff was notified
4 of issues with the Commission's notice of final rulemaking, that an amendment made to the final
5 proposed rule may constitute a substantial change from what was noticed in the original notice of
6 proposed rulemaking.

7 In order to protect the health and safety of the public, Staff requests the adoption of these
8 proposed rules through an emergency rulemaking process pursuant to A.R.S. § 41-1026.

9 * * * * *

10 Having considered the entire record herein and being fully advised in the premises, the
11 Commission finds, concludes, and orders that:

12 **FINDINGS OF FACT**

- 13 1. Staff is recommending amendments to A.A.C. R14-5-202, R14-5-203, R14-5-204,
14 R14-5-205, and R14-5-207, of the Pipeline Safety Rules.
- 15 2. The recommended amendments would update the rules by incorporating the most
16 recent amendments to the Code of Federal Regulations ("CFR"), Title 49.
- 17 3. The recommended amendments to Rule R14-5-202 (Construction and Safety
18 Standards for Gas, LNG, and Hazardous Liquid Pipeline Systems) would do the following:
- 19 a. Paragraph B is revised to update incorporations of CFR provisions by
20 reference.
- 21 b. Paragraph J is revised to update incorporations of CFR provisions by
22 reference.
- 23 c. Paragraph Q is revised to correct an address reference.
- 24 d. New Paragraph T is inserted for clarity and to specify the CFR provisions
25 adopted by Paragraph B that it modifies.
- 26 e. Former Paragraph T is renumbered as Paragraph U and revised to clarify
27 internal cross references.
- 28 f. Former Paragraph U is renumbered as Paragraph V.

- 1 g. Former Paragraph V is renumbered as Paragraph W.
- 2 h. Former Paragraph W is renumbered as Paragraph X.
- 3 4. The recommended amendments modify R14-5-203 (Pipeline Incident Reports) as
- 4 follows:
- 5 a. Paragraph C is revised to update incorporations of standards by reference
- 6 and for clarity.
- 7 5. The recommended amendments modify R14-5-204 (Annual Reports) as follows:
- 8 a. Paragraph A is revised to update incorporations of standards by reference.
- 9 6. The recommended amendments modify R14-5-205 (Commission Investigations) by
- 10 deleting an extra comma for clarity.
- 11 7. The recommended amendments modify R14-5-207 (Master Meter System
- 12 Operators) as follows:
- 13 a. Paragraph B is revised for clarity.
- 14 b. Paragraph P is revised for clarity.
- 15 c. Paragraph Q is revised for clarity.
- 16 8. Pursuant to Executive Order 2015-01 (January 5, 2015) (“Moratorium”), an agency
- 17 subject to the Moratorium shall not conduct any rulemaking formally or informally without the
- 18 prior written approval of the Governor. Pursuant to Paragraph (3) of the Moratorium, the rules
- 19 proposed by the Commission are expressly exempt from the prior approval requirement of the
- 20 Moratorium.
- 21 9. Staff recommends that the effective date for the rule amendments should be
- 22 immediately upon the Attorney General’s approval and filing of a Notice of Emergency
- 23 Rulemaking with the Office of the Secretary of State for publication. Staff believes the interest in
- 24 safety that the rule amendments promote, justifies the immediate implementation and effectiveness
- 25 of the amendments pursuant to A.R.S. § 41-1032(A)(1) and (2).
- 26 10. Staff believes that the proposed amendments will be beneficial to the general public
- 27 by maintaining the safe operation of pipeline facilities.
- 28

1 provides that a rule may be adopted as an emergency measure if the rule is necessary to (1) protect
2 the public health, safety or welfare, (2) comply with deadlines in amendments to an agency's
3 governing law or federal programs, (3) avoid violation of federal law or regulation or other state
4 law, (4) avoid an imminent budget reduction, or (5) avoid serious prejudice to the public interest or
5 the interest of the parties concerned.

6 16. Adoption of these proposed rule changes is for the benefit of public health, safety
7 and welfare. The rules are safety rules relating to the transportation of natural gas and hazardous
8 liquids. The proposed rule amendments update the Commission's rules to the most current
9 standards adopted by the United States Department of Transportation Pipeline and Hazardous
10 Materials Safety Administration ("PHMSA"). Adoption of the proposed rule amendments is
11 necessary to protect the public health, safety, and welfare.

12 17. Adoption of the proposed rule changes is necessary to remain current with
13 amendments to Federal Regulations. As a condition of the Commission's participation as an agent
14 of PHMSA for purposes of inspecting and enforcing pipeline safety requirements on both
15 intrastate and interstate natural gas and hazardous materials pipelines found within Arizona,
16 maintaining that status requires the Commission to maintain rules that are consistent with Federal
17 Regulations.

18 18. Adoption of the proposed rule changes is necessary to avoid an imminent budget
19 reduction. In order to continue receiving grant monies that are used to enforce pipeline safety
20 requirements, the Commission is required to maintain a program that is consistent with Federal
21 Regulation, which includes adopting and enforcing rules that are consistent with Federal
22 requirements. Further, rules consistent with Federal Regulations must be enacted and enforceable
23 before January 1, 2016. A loss of these grant monies would result in a reduction to the resources
24 the Commission has available to protect the public health and safety through the enforcement of
25 the pipeline safety requirements.

26 **Staff Recommendations**

27 19. Staff recommends that the Commission direct Staff to submit with the Arizona
28 Attorney General by October 23, 2015, for review, an Emergency Rulemaking Package that

1 includes the text of the rules as included in Exhibit A, attached hereto and incorporated herein by
2 reference as well as all necessary documents in accordance with A.A.C R1-1-701.

3 20. We find that the amendments to A.A.C. R14-5-202, R14-5-203, R14-5-204, R14-5-
4 205 and R14-5-207 are necessary as an emergency measure.

5 CONCLUSIONS OF LAW

6 1. Pursuant to Arizona Constitution, Art. 15, § 3 and A.R.S. §§ 40-202, 40-203, 40-
7 321, 40-322, 40-336, and 40-441, the Commission has jurisdiction to amend A.A.C. R14-5-202,
8 R14-5-203, R14-5-204, R14-5-205, and R14-5-207 as reflected in Exhibit A.

9 2. Pursuant to A.R.S. § 41-1026, an emergency exists that requires the timely adoption
10 of the proposed rules.

11 3. Staff's recommendations made in Finding of Fact No. 19 are appropriate and
12 should be adopted.

13 ORDER

14 IT IS THEREFORE ORDERED that the Safety Division shall prepare and submit to the
15 Arizona Attorney General by October 23, 2015, for review, an Emergency Rulemaking Package
16 that includes the text of the rules as included in Exhibit A, attached hereto and incorporated herein
17 by reference in accordance with A.R.S. § 41-1026 and any additional documents required by the
18 Office of the Secretary of State pursuant to A.A.C. R1-1-701.

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BY THE ORDER OF THE ARIZONA CORPORATION COMMISSION

CHAIRMAN

COMMISSIONER

COMMISSIONER

COMMISSIONER

COMMISSIONER

IN WITNESS WHEREOF, I, JODI JERICH, Executive Director of the Arizona Corporation Commission, have hereunto, set my hand and caused the official seal of this Commission to be affixed at the Capitol, in the City of Phoenix, this _____ day of _____, 2015.

JODI JERICH
EXECUTIVE DIRECTOR

DISSENT: _____

DISSENT: _____

1 SERVICE LIST FOR: ARIZONA CORPORATION COMMISSION PROPOSED
2 RULEMAKING
3 DOCKET NO. RG-00000A-15-0098

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5 Director, Utilities Division
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	Fausto Luna	
	Remote Tank Farm	
	250 North 55th Avenue	

EXHIBIT A

EXHIBIT A

**TITLE 14. PUBLIC SERVICE CORPORATIONS; CORPORATIONS AND
ASSOCIATIONS; SECURITIES REGULATION
CHAPTER 5. CORPORATION COMMISSION – TRANSPORTATION
ARTICLE 2. PIPELINE SAFETY**

Section

- R14-5-202. Construction and Safety Standards for Gas, LNG, and Hazardous Liquid Pipeline Systems
- R14-5-203. Pipeline Incident Reports
- R14-5-204. Annual Reports
- R14-5-205. Commission Investigations
- R14-5-207. Master Meter System Operators

ARTICLE 2. PIPELINE SAFETY

R14-5-202. Construction and Safety Standards for Gas, LNG, and Hazardous Liquid Pipeline Systems

- A. No Change
- B. Subject to the definitional changes in R14-5-201 and the modifications noted in this Section, the Commission adopts, incorporates, and approves as its own 49 CFR 40; 191; 192, except (I)(A)(2) and (3) of Appendix D to Part 192; 193; 195, except 195.1(b)(2), (3), and (4); and 199(~~October 1, 2012-October 1, 2015~~), including no future editions or amendments, which are incorporated by reference; on file with the Office of Pipeline Safety; and published by and available from the U.S. Government Printing Office, 710 North Capital Street N.W., Washington DC 20401, and at <http://www.gpo.gov/fdsys/>. For purposes of 49 CFR 192, "Business District" means an area where the public congregate for economic, industrial, religious, educational, health, or recreational purposes and two or more buildings used for these purposes are located within 100 yards of each other.
- C. No change
 - 1. No change
 - 2. No change
- D. No change
- E. No change
 - 1. No change
 - 2. No change
- F. No change
- G. No change
- H. No change
- I. No change
- J. An operator of an intrastate pipeline transporting LNG, gas, or a hazardous liquid shall use a cathodic protection system designed to protect the metallic pipeline in its entirety, in accordance with 49 CFR 192, Subpart I, ~~October 1, 2010 (and no future amendments)~~, as incorporated by reference in subsection (B), ~~and copies available from the Office of Pipeline Safety and the United States Government Printing Office, P.O. Box 371954, Pittsburgh, PA 15250-7954, except.~~ Sections (I)(A)(2) and (3) of Appendix D to Part 192 shall not be utilized. This modifies 49 CFR 192.463(a), 193.2629, and 195.571.
- K. No change
- L. No change
- M. No change
- N. An operator of an intrastate pipeline transporting gas or hazardous liquid that constructs an underground pipeline system using plastic pipe shall bury the installed pipe with at least 6 inches of sandy type soil, free of any rock or debris, surrounding the pipe for bedding and shading, unless the pipe is otherwise protected as approved by the Office of Pipeline Safety. Steel pipe shall be installed with at least 6 inches of sandy type soil, free of any debris or materials injurious to the pipe coating, surrounding the pipe for bedding and

shading, unless the pipe is otherwise protected as approved by the Office of Pipeline Safety. This modifies 49 CFR 192.321, 192.361, and 195.246.

O. No change

P. No change

Q. An operator of an intrastate pipeline transporting gas shall survey and grade all detected leakage according to the standards provided below, which modify 49 CFR 192.706 and 192.723:

1. In the case of all gas except LPG, leakage surveys and grading shall be performed pursuant to the standards set by ASME Guide for Gas Transmission and Distribution Pipeline System, Guide Material, Appendix G-11-1983, including no future editions or amendments, which is incorporated by reference; on file with the Office of Pipeline Safety; published by and available from ASME, ~~Three~~ Two Park Avenue, New York, NY 10016-5990; and modified by omitting 4.4(c) and by replacing "should" with "shall" each time it appears.

2. In the case of LPG, leakage surveys and grading shall be performed pursuant to the standards set by ASME Guide for Gas Transmission and Distribution Pipeline System, Guide Material, Appendix G-11A-1983, including no future editions or amendments, which is incorporated by reference; on file with the Office of Pipeline Safety; published by and available from ASME, ~~Three~~ Two Park Avenue, New York, NY 10016-5990; and modified by replacing "should" with "shall" each time it appears.

3. No change

R. No change

S. No change

T. An operator of an LNG facility shall ensure that nondestructive testing is completed for each weld performed on newly installed, replaced, or repaired pipeline or an appurtenance. This modifies 49 CFR 193.2303.

~~T.~~ U. In the event of an unknown failure of a gas, LNG, or hazardous liquid pipeline, resulting in the operator's being required to provide a telephonic or written report under R14-5-203 (B) or (C) and in the operator's removing a portion of the failed pipeline, the following shall occur:

1. No change

2. No change

a. No change

b. No change

c. No change

d. No change

e. No change

f. No change

3. Within 48 hours after receiving telephonic notification pursuant to subsection (~~T~~ U)(2), the Office of Pipeline Safety shall:

- a. Determine, based on the information provided by the operator and the availability, adequacy, and reliability of any pipeline testing laboratory operated by the operator, whether it is necessary to have the removed portion of pipeline tested at an independent laboratory; and
- b. Telephonically notify the operator either:
 - i. That the operator must have the removed portion of pipeline tested, in accordance with Office of Pipeline Safety directions, by an independent laboratory selected by the Office of Pipeline Safety as provided in subsection (~~F~~ U)(5), to determine the cause or causes of the failure; or
 - ii. That the operator is not required to have the removed portion of pipeline tested by an independent laboratory and instead must conduct testing in its own pipeline testing laboratory, after which the operator may discard the removed portion of pipeline;
4. After providing telephonic notice as provided in subsection (~~F~~ U)(3)(b), the Office of Pipeline Safety shall confirm its notification in writing;
5. If the Office of Pipeline Safety directs testing by an independent laboratory:
 - a. The Office of Pipeline Safety shall:
 - i. Determine, as provided in subsection (~~F~~ U)(6), the independent laboratory that will do the testing and the period of time within which the testing is to be completed;
 - ii. No change
 - iii. No change
 - b. No change
 - i. No change
 - ii. No change
 - iii. No change
 - iv. No change
 - v. No change
6. In determining an independent laboratory to perform testing required under subsection (~~F~~ U), the Office of Pipeline Safety shall:
 - a. No change
 - b. No change
 - i. No change
 - ii. No change
 - c. No change
 - i. No change
 - ii. No change

- d. No change
- No change

~~U.~~ V. An operator shall ensure that all repair work performed on an existing intrastate pipeline transporting LNG, hazardous liquid, or gas complies with this Article.

~~V.~~ W. The Commission may waive compliance with any of the requirements of this Section upon a finding that such a waiver is in the interest of public and pipeline safety.

~~W.~~ X. To ensure compliance with the provisions of this Article, the Commission or an authorized representative thereof may enter the premises of an operator of an intrastate pipeline to inspect and investigate the property, books, papers, electronic files, business methods, and affairs that pertain to the pipeline system operation.

R14-5-203. Pipeline Incident Reports

A. No change

B. No change

1. No change

a. No change

i. No change

ii. No change

iii. No change

iv. No change

v. No change

b. No change

c. No change

d. No change

e. No change

f. No change

g. No change

h. No change

2. No change

a. No change

i. No change

ii. No change

iii. No change

b. No change

c. No change

d. No change

e. No change

f. No change

- i. No change
 - ii. No change
 - iii. No change
 - iv. No change
 - g. No change
 - 3. No change
 - a. No change
 - b. No change
 - c. No change
 - d. No change
 - e. No change
 - f. No change
 - g. No change
- C. No change
 - 1. No change
 - a. No change
 - i. No change
 - ii. No change
 - iii. No change
 - iv. No change
 - v. No change
 - b. No change
 - c. No change
 - d. No change
 - e. No change
 - 2. A written incident report concerning a gas pipeline system shall be completed using the following, as applicable, which are incorporated by reference; on file with the Office of Pipeline Safety; and published by and available from PHMSA at East Building, Second Floor, 1200 New Jersey Ave., SE, Washington, DC 20590, and at <http://www.phmsa.dot.gov/pipeline/library/forms>:
 - a. Form PHMSA F 7100.1: Incident Report – Gas Distribution System (~~June 2011~~October 2014), including no future editions or amendments;
 - b. Form PHMSA F 7100.2: Incident Report – Natural and Other Gas Transmission and Gathering Pipeline Systems (~~December 2012~~October 2014), including no future editions or amendments; or
 - c. Form PHMSA F 7100.3: Incident Report – Liquefied Natural Gas (LNG) Facilities (~~June 2011~~October 2014), including no future editions or amendments.

3. An operator of an intrastate pipeline transporting hazardous liquid shall file a written incident report completed using Form PHMSA F 7000-1: Accident Report – Hazardous Liquid Pipeline Systems (~~December 2012~~July 2014), including no future editions or amendments, which is incorporated by reference, on file with the Office of Pipeline Safety, and published by and available from PHMSA as set forth in subsection (C)(2), any time the operator would have been required to make a notification as required under R14-5-203(B)(2).
4. A written incident report required by this Section shall be filed with the Office of Pipeline Safety within the time specified below:
 - a. For an LNG, or gas - incident, within 20 days after detection; and
 - b. No change
5. No change
6. After an incident involving shutdown or partial shutdown of a master meter system, an operator of a gas pipeline system shall request and obtain a clearance from the Office of Pipeline Safety before turning on or reinstating service to a the master meter system or portion of the master meter system that was shut down.

R14-5-204. Annual Reports

- A. An operator of an intrastate pipeline shall file with the Office of Pipeline Safety, not later than March 15, for the preceding calendar year, an annual report completed using one of the following, as applicable, which are incorporated by reference; on file with the Office of Pipeline Safety; and published by and available from PHMSA as provided in R14-5-203(C)(2):
 1. Form PHMSA F 7000-1.1: Annual Report for Calendar Year 20__ Hazardous Liquid Pipeline Systems (~~June 2014~~2014), including no future editions or amendments, which shall be completed in accordance with the PHMSA instructions for the form;
 2. Form PHMSA F 7100.1-1: Annual Report for Calendar Year 20__ Gas Distribution System (~~January 2014~~ May 2015), including no future editions or amendments, which shall be completed in accordance with the PHMSA instructions for the form;
 3. Form PHMSA F 7100.2-1: Annual Report for Calendar Year 20__ Natural and Other Gas Transmission and Gathering Pipeline Systems (~~December 2012~~October 2014), including no future editions or amendments, which shall be completed in accordance with the PHMSA instructions for the form; or
 4. Form PHMSA F 7100.3-1: Annual Report for Calendar Year 20__ Liquefied Natural Gas (LNG) Facilities (~~June 2014~~October 2014), including no future editions or amendments, which shall be completed in accordance with the PHMSA instructions for the form.
- B. No change

R14-5-205. Commission Investigations

- A. No change

- B.** While investigating an incident, accident, or event, the Commission, or an authorized agent of the Commission may:
1. No change
 2. No change
 3. No change
 4. No change
 5. No change
 6. No change

R14-5-207. Master Meter System Operators

- A.** No change
- B.** An operator of a master meter system shall comply with this Section as a condition of receiving service from a provider. Noncompliance with this Section by an operator of a master ~~meters~~ meter system constitutes grounds for termination of service by the provider when informed in writing by the Office of Pipeline Safety. In case of an emergency, the Office of Pipeline Safety may give the provider oral instructions to terminate service, with written confirmation to be furnished within 24 hours.
- C.** No change
- D.** No change
1. No change
 2. No change
- E.** No change
1. No change
 2. No change
 - a. No change
 - b. No change
 - c. No change
- F.** No change
- G.** No change.
- H.** No change
- I.** No change
- J.** No change
- K.** No change
- L.** No change
1. No change
 2. No change
 3. No change
 4. No change
- M.** No change

N. No change

1. No change
2. No change
3. No change
4. No change

O. No change

1. No change
2. No change
3. No change
4. No change

P. In the event of an unknown failure of a gas pipeline resulting in a master meter system operator's being required to provide a report under subsection (Q) and in the operator's removing a portion of the failed pipeline, the following shall occur:

1. No change
2. No change
 - a. No change
 - b. No change
 - c. No change
 - d. No change
 - e. No change
 - f. No change
3. No change
 - a. No change
 - b. No change
 - i. No change
 - ii. No change
4. No change
5. No change
 - a. No change
 - i. No change
 - ii. No change
 - iii. No change
 - b. No change
 - i. No change
 - ii. No change
 - iii. No change
 - iv. No change

- v. No change
- 6. No change
 - a. No change
 - b. No change
 - i. No change
 - ii. No change
 - c. No change
 - i. No change
 - ii. No change
 - d. No change

Q. No change

- 1. No change
 - a. No change
 - i. No change
 - ii. No change
 - iii. No change
 - iv. No change
 - v. No change
 - vi. No change
 - vii. No change
 - viii. No change
 - b. No change
 - c. An event involving permanent or temporary discontinuance of service to a master meter system or any portion of a master meter system due to a failure of a leak test or for any purpose other than to perform routine maintenance; or
 - d. No change
- 2. No change
 - a. No change
 - b. No change
 - c. No change
 - d. No change
 - e. No change
 - f. No change
 - g. No change
- 3. No change

R. No change

- S. To ensure compliance with all applicable provisions of this Article, the Commission or an authorized representative thereof, may enter the premises of an operator of a master meter system to inspect and investigate the property, books, papers, electronic files, business methods, and affairs that pertain to the operation of the master meter system.